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The Indiana Conspiracy Case. ARGUMENT OF JEREMIAH S. BLACK.

CONCLUDED.

The truth is, that no authority exists anywhere in the world for the doctrine of the Attorney General. No judge or jurist, no statesman or parliamentary orator, on this or the other side of the water, sustains him. Every elementary writer from Coke to Wharton is against him. All military authors who profess to know the duties of their profession admit themselves to be under, not above, the laws. No book can be found in any library to justify the assertion that militany tribunals may try a citizen at a place where the courts are open. When I say no book, I mean, of course, no book of acknowledged authority. I do not deny that hireling dergymen have often been found to disgrace the pulpit by trying to prove the divine right of kings and other rulers to govern as they please. It is true, also, that court sycophants and party hacks have many times written pamphlets, and perhaps large volumes, to show that those whom they serve should be allowed to work out their bloody will upon the people. No abuse of power is too flagrant to find its defenders among such servile creatures. Those butchers' dogs that feed upon garbage and fatten upon the offal of the shambles are always ready to bark at whatever interferes with the trade of their master.

But this case does not depend on authority

It is rather a question of fact than of law. I prove my right to a trial by jury just as I would prove my title to an estate if I held in my hand a solemn deed conveying it to me, compled with undeniable evidence of long and undisturbed possession under and according to the deed. There is the charter by which we claim to hold it. It is called the Constitution of the United States. It is signed by the sacred name of George Washington, and by thirty-nine other names, only less illustrious than his. They represented every independent State then upon this continent, and each State afterwards ratified their work by a separate convention of its own people. Every State that subsequently came in acknowledged that this was the great standard by which their rights were to be measured. Every man that has ever held office in the country, from that time to this, has taken an oath that he would support and sustain it through good report and through evil. The Attorney General himself became a party to the instrument when he laid his hand upon the gospel of God and solemnly swore that he would give to me and every other citizen the full benefit of all it

What does it contain? This among other

"The trial of all crimes except in cases of

impeachment shall be by jury. Again: "No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in ger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor be compelled in any erminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private prop- sleep. erty be taken for public use without just com-

. This is not all; another article decleares bat 'in all criminal prosecutions the accusdistrict wherein the crime shall have been it with everlasting infamy.

stance of counsel for his defense." does not signify that a jury trial shall be the jury was wholly impossible; admit that there exclusive and only means of ascertaining was an absolute, overwhelming, imperious guilt in criminal cases, then I demand to necessity operating so as literally to compel know what words or what collocation of every act which the commissioners did, would words in the English language would have that give their sentence of death the validity

Bunyan was imprisoned fourteen years, and the law not only did not give them, but ex- right to a fair trial. of the Constitution are all-embracing-

"As broad and general as the casing air." The trial of ALL crimes shall be by jury. ALL persons accused shall enjoy that priviswer in any other way.

instrument, though they may be weakened by enumeration, are always strengthened by exceptions. Here is no attempt to enumerate the particular cases in which men chargonward path for other reasons, and make different exceptions. To exceptions, the maxim is always applicable, that expressio unius the law forbade you to give. exclusio est alterius.

But we are answered that the judgment under consideration, was pronounced in time of war, and it is therefore, at least, morally precisely in a time of war and civil commo- booty and beauty" of the place from the us than an army with banners. the Constitution. If the sanitary regula- and St. Sebastian by the very same troops that ever took possession of a human brain. channel, and creeps lazily along the bottom, gle mutineer was restrained by a short conno need of a dyke to save them from inun- up the river. But after he had saved the them down. He who carries on a system of dation. But when the booming flood comes city, and the danger was all over, he stood wholesale slaughter for any other purpose, down from above, and swells into a volume | before the court to be tried by the law; his | must stand without excuse before God or which rises high above the plain on either | conduct was decided to be illegal by the same | man. In a time of war, more than at any most serious thing. So in peaceable and and he paid the penalty without a murmur. the public officers. And she is there in dourage, and goes surging up against the bar- but in conflict with the law of the land was are her special guardiansriers which were made to confine it, then | void and of none effect, without reference we need the whole strength of an unbroken to the circumstances which made it necessa-Constitution to save us from destruction. rv. Long afterwards the fine imposed upon But this is a question which properly belongs | Jackson was refunded because his friends,

t could not be obeyed, that might be an ex- offender. suse. But no absolute compulsion is pretended here. These commissioners acted, necessity. The choice was left them to obey actual service in time of war or public dan- therefore it was necessary, and being neces- to take the jurisdiction away from the civil sary it was right and proper, to create an il- courts and transfer it to army officers. legal tribunal which would put them to death without proof. By the same mode of reasoning you can prove it equally right to poison them in their food, or stab them in their

Nothing that the worst men ever propounded has produced so much oppression misgovernment, and suffering as this pretence of State necessity. A great authority ed shall enjoy the right to a speedy and pub- ealls it "the tyrant's devilish plea;" and the he trial by an impartial jury of the State and common honesty of all mankind has branded

ted, which district shall have been Of course, it is mere absurdity to say that ously ascertained by law; and to be in- these relators were necessarily deprived of ed of the nature and cause of the accu- their right to a fair and legal trial, for the en; to be confronted with the witnesses record shows that a court of competent juris-diction was sitting at the very time and in the ses in his favor, and to have the same town, where justice would have been done without sale, denial, or delay. But con- of obligation upon those who swear to sup-Is there any ambiguity there? If that cede for the argument's sake that a trial by

from a criminal prosecution?

to the jurisdiction of the stump and the while they admitted him to have violated the law, insisted that the necessity which There is another quasi political argument drove him to it ought to have saved him -necessity. If the law was violated because from the punishment due only to a willful

The learned counsel on the other side will not assert that there was war at Indianapo at most, under what they regarded as a moral lis in 1864, for they have read Coke's Institute, and Judge Grier's opinion in the prize the law or disobey it. The disobedience | cases, and of course they know it to be a setwas only necessary as means to an end which tled rule that war cannot be said to exist they thought desirable; and now they assert | where the civil courts are open. They will that though these means are unlawful and not set up the absurd plea of necessity, for wrong, they are made right, because with- they are well aware that it would not be true out them the object could not be accom- in point of fact. They will hardly take the plished; in other words, the end justifies the ground that any kind of necessity could give means. There you have a rule of conduct legal validity to that which the law forbids.

denounced by all law, human and divine, as This, therefore, must be their position : being pernicious in policy and false in morals. That although there was no war at the place See how it applies to this case. Here were where this commission sat, and no actual nethree men whom it was desirable to remove cessity for it, yet if there was a war anyout of this world, but there was no proof on | where else, to which the United States were which any court would take their lives; a party, the technical effect of such war was

> GEN. BUTLER. We do not take that Mr. BLACK. Then they can take no ground at all, for nothing else is left. I do

not wonder to see them recoil from their own doctrine when its nakedness is held up to their eyes. But they must stand upon that or give up their cause. They may not state their proposition precisely as I state it; that is too plain a way of putting it. But, in substance, it is their doctrine-has been the doctrine of the Attorney General's office ever since the advent of the present incumbentand is the doctrine of their brief, printed and filed in this case. What else can they say They will admit that the Constitution is not altogether without a meaning; that at a time of universal peace it imposes some kind port it. If no war existed they would not deny the exclusive jurisdiction of the civil courts in criminal cases. How then did the military get jurisdiction in Indiana?

All men who hold the Attorney General's

ordinary crimes against society, and shall else to show that their guilt was not willful. the bench, and their process is not impeded; would have swelled with indignation at the all their obligations to him, renders himself on the subject. He will not attempt to "darit be denied to men who are accused of such But we are now considering the legal effect but their jurisdiction is gone. Why? Be- bare thought of such an insulting outrage liable to be hurled from his throne, and drag- ken counsel by words without knowledge," offenses as those for which Sydney and Rus- of their decision, and that depends on their cause, say our opponents, war exists, and the upon the liberty and law of his country. In ged to the block or driven into exile. This and, therefore, like Job, he can only lay his sell were beheaded, and Lisle was hung, and legal authority to make it. They had no such silent, legal, technical operation of that fact the war of 1812, the man emphatically called principle was sternly enforced in the case of hand upon his mouth and keep silence. Elizabeth Gaunt was burnt alive, and John authority; they usurped a jurisdiction which is to deprive all American citizens of their the Father of the Constitution was the su-

Prynn had his ears out off? No; the words lows that their act is void, whatever may hold that the trial by jury is lost to the citi- Union ever saw. have been the real or supposed excuse for it. | zen during the existence of war, carry out | That was no half-organized rebellion on the | arbitrary order to be arrested under any pre- | will give you a definition, the correctness of If these commissioners, instead of aiming their doctrine theoretically and pracitcally to one side of the conflict, to be crushed by the tense whatever. If that be true there, how which you will not attempt to gainsay. You at the life and liberty of the relators, had at its ultimate consequences. The right of trial hostile millions and unbounded resources of much more true must it be here, where we assert the right of the executive tempted to deprive them of their property by jury being gone, all other rights are gone the other. The existence of the nation was have no personal severeign and where our government, without the intervention lege-and NO person shall be held to an- by a sentence of confiscation, would any court with it; therefore a man may be arrested threatened by the most formidable military only government is the Constitution and of the judiciary, to capture, imprison, and in christendom declare that such a sentence without an accusation and kept in prison du- and naval power then upon the face of the laws. A violation of law on pretense of sav- kill any person to whom that government or That would be sufficient without more. divested the title? Or would a person claim- ring the pleasure of his captors; his papers' earth. Every town upon the northern fron- ing such a Government as ours is not self- its paid dependents may choose to impute But there is another consideration which ing under the sentence make his right any may be searched without a warrant; his tier, upon the Atlantic seaboard, and upon preservation, but suicide. gives it tenfold power. It is a universal rule better by showing that the illegal assumption property may be confiscated behind his back, the Gulf coast was in daily and hourly danof construction, that general words in any of jurisdiction was accompanied by some ex- and he has no earthly means of redress. Nay, ger. The enemy had penetrated the heart Salus regis; the safety of the people, not the cuse which might save the commissioners an attempt to get a just remedy is construed of Ohio, New York, Pennsylvania, and safety of the ruler, is the supreme law .- deny the restraints of all law. It has been Let me illustrate still further. Suppose for the right of free speech is gone with the the west as well as the east. This Capitol Government in their hands behave in such a of mankind ever since the days of Nimrod. you, the judges of this Court to be surround- rest of his rights. If you sanction that doc- was taken, and burned, and pillaged, and manner as to put the liberties and rights of It operates in different ways; the tools it ed with criminal offenses shall be entitled to ed in the hall where you are sitting by a body trine, what is to be the consequence? I do every member of the Federal Administrathe people in jeopardy, the people may rise uses are not always the same, it hides its a jury trial. It is simply declared that all of armed insurgents, and compelled by main not speak of what is past and gone; but in tion was a fugitive before the invading army. against them and overthrow them without shall have it. But that is coupled with a force to pronounce sentence of death upon ease of a future war what results will follow Meanwhile, party spirit was breaking out in regard to that law which requires obedience statement of two specific exceptions: cases | the President of the United States for some | from your decision endorsing the Attorney | to actual treason all over New England .- | to them. The maxim is revolutionary and of impeachment; and cases arising in the act of his upon which you have no legal au- General's views? They are very obvious. Four of those States refused to furnish a expresses simply the right to resist tyranny land or naval forces. These exceptions thority to adjudicate. There would be a val- At the instant when the war begins, our man or a dollar even for their own defense. without regard to prescribed forms. It can strengthen the application of the general id sentence if necessity alone could create whole system of legal government will tumrule, to all other cases. Where the law-giv- jurisdiction. But could the President be le- ble into ruin, and if we are not all robbed, dismemberment of the Union, and invidu- ernment against the people. er himself has declared when and in what gally executed under it? No; the compul- and kidnapped, and drawn, als among them were burning blue lights upon If this government of ours has no power to circumstances you may depart from the gen- sion under which you acted would be a good and quartered, we willowe our immunity, not the coast as a signal to the enemy's ships. defend itself without violating its own laws, eral rule, you shall not presume toleave that defense for you against an impeachment or to the Constitution and laws, but to the mere But in all this storm of disaster, with foreign it carries the seeds of destruction in its own an indictment for murder, but it would add mercy or policy of those persons who may war in his front, and domestic treason on his bosom; it is a poor, weak, blind, staggering nothing to the validity of a judgment which then happen to control the organized physi- flank, Madison gave out no sign that he thing, and the sooner it tumbles over the cal force of the county.

That a necessity for violating the law is This certainly puts us in a most precarious break up this government of laws. On the mode of protecting itself against all possible nothing more than a mere excuse to the per- condition ; we must have war about half the contrary he and all his supporters, though danger. It is clothed from head to foot in a petrator, and does not in any legal sense time, do what we may to avoid it. The compassed round with darkness and with complete panoply of defensive armor. What change the quality of the act itself in its op- President or Congress can wantonly provoke danger, stood faithfully between the Consti- are the perils which may threaten its exisexcusable. There may or there may not be eration upon other parties, is a proposition a war whenever it suits the purpose of eithcomething in that. I admit that the merits too plain on original principles to need the er to do so; and they can keep it going as or demerits of any particular act, whether it aid of authority. I do not see how any man long as they please, even after the actual involves a violation of the Constitution or of common sense is to stand up and dispute conflict of arms is over. When peace woos not, depend upon the motives that prompted it. But there is decisive authority upon the them they can ignore her existence; and the time, the occasion, and all the attend- point. In 1815 at New Orleans, General thus they can make the war a chronic coning circumstances. When the people of Jackson took upon himself the command of dition of the country, and the slavery of the too, this country come to decide upon the acts of every person in the city, suspended the func- people perpetual. Nay, we are at the mertheir rulers, they will take all these things tions of all the civil authorities, and made cy of any foreign potentate who may envy and a third generation was already far on its defense against all these? Yes; military into consideration. But that presents the his own will for a time the only rule of con- us the possession of those liberties which political aspect of the case with which, I duct. It was believed to be absolutely need we boast of so much; he can shatter our trust, we have nothing to do here. I decline essary. Judges, officers of the city corpora- Constitution without striking a single blow or to discuss it. I would only say, in order to tion, and members of the State Legislature bringing a gun to bear upon us. A simple prevent misapprehension, that I think it is insisted on it as the only way to save the declaration of hostilities is more terrible to

tion, that we should double the guards upon unspeakable outrages committed at Badajoz To me, this seems the wildest delusion tions which defend the health of a city are then marching to the attack. Jackson used If there be one principle of political ethics ever to be relaxed, it ought certainly not to the power thus taken by him moderately, more universally acknowledged than another, be done when pestilence is abroad. When sparingly, benignly, and only for the purpose it is that war, and especially civil war, can the Mississippi shrinks within its natural of preventing mutiny in his camp. A sin- be justified only when it is undertaken to the inhabitants of the adjoining shore have finement, and another was sent four miles tional rights of the people; not to trample side, then a crevasse in the levee, becomes a judge who had declared it to be necessary, other time, public liberty is in the hands of quiet times, our legal rights are in little danger | The supreme court of Louisiana, in Johnson | ble trust; first, as they are citizens and thereof being overborne; but when the wave of ar- vs. Duncan, decided that everything done fore bound to defend her, by the common bitrary power lashes itself into violence and during the siege in pursuance of martial rule, obligation of all citizens; and next, as they

> "Who should against her murderers shut the door Not bear the knife themselves." hind it and stab it in the back.

ingly. They required that every man in any theory.

all changes and through all disasters. When conviction.

it confined to vulgar criminals, who commit just as they would plead insanity or anything zation of society is intact, the judges are on You can well imagine how that great heart the social compact, releases his subjects from new General make a reply, for there is no law

would aid Oid England and New England to better. But it has a most efficient legal

"To shild it, and save it or perists there too," The framers of the Constitution and all their cotemporaries died and were buried : their children succeeded them and continued on the stage of public affairs until they,

"Lived out their lease of lift, and paid their breath To time and mortal custom :" -

way to the grave before this monstrous doctrine was conceived or thought of, that public officers all over the country might disre- and navy by means of courts-martial; you gard their oaths whenever a war or a rebel- preserve the purity of the civil administralion was commenced.

obligation of the Constitution they must put | not merely compelled to use these weapons some other system of law in its place .-Their brief gives us notice that, while the Constitution, and the acts of Congress, and use them because they are more efficient magna charta, and the common law, and all than any other, and less liable to be abused. of nations takes no notice of the subject .- of public authority which is not conferred is my answer to the law of nations.

The opposing argument, when turned into become mysterious. Do they mean that jurisdiction they have or can have is bestowplain English, means this, and this only; code of public law which defines the duties of ed by law, and if one of them goes beyond that when the Constitution is attacked upon | two belligerent parties to one another, and | what is written its action is ultra vives and one side, its official guardians may assail it regulates the intercourse of neutrals with void. But a military commission is not a upon the other; when rebellion strikes it in both? If yes, then it is simply a recurrence | court-martial, and it is not a civil court. It the face, they may take advantage of the to the law of nations, which has nothing on is not governed by the law which is made for blindness produced by the blow, to sneak be- earth to do with the subject. Do they mean either, and it has no law of its own. Within that portion of our municipal code which de- the last five years we have seen for the first The Convention when it framed the Con- fines our duties to the Government in war as time, self-constituted tribunal not only assustitution, and the people when they adopted well as in peace? Then they are speaking ming power which the law did not give them, t, could have had no thought like that. If of the Constitution and laws, which declare but thrusting aside the regular courts to they had supposed that it would operate only in plain words that the Government owes which the power was exclusively given. while perfect peace continued, they certainly every citizen a fair legal trial, as much as the What is the consequence? This terrible would have given us some other rule to go citizen owes obedience to the Government .- authority is wholly undefined, and its exerby in time of war; they would not have They are in search of an argument under cise is without any legal control. Undelegaleft us to wander about in a howling wilder- difficulties. When they appeal to internated power is always unlimited. The field ness of anarchy, without a lamp to our feet, tional law, it is silent; and when they inter- that lies outside of the Constitution and laws or a guide to our path. Another thing rogate the law of the land, the answer is an has no boundary. Thierry, the French hisproves their actual intent still more strik- unequivocal contradiction of their whole torian of England, says that when the crown

that effect? Does this mean that a fair, open, and force of a legal judgment pronunced by an ordained and established court? The comes from the mere existence of war; and ingentity? What is the nature of their many purishments? May they confiscate property only to those persons against whom a pecial grudge is felt by the Astorney General or the judge advocate, or the head of a department? Shall this intestimable of the people, he breaks administration does not care to convict? Is

preme Executive Magistrate. Talk of peril- nounced on the highest official authority here ry commissions is not only unregulated by Baxter was whipped at the cart's tail, and pressly forbade them to exercise, and it fol- That class of jurists and statesmen who ous times! there was the severest trial this that the queen of England cannot ring a lit- law but it is incapable of being so regulated. tle bell on her table and cause a man by her What is it that you claim, Mr. Attorney? I

as a new crime. He dare not even complain. Virginia were all of them threatened from When those who hold the authority of the exercised by the great and small oppressors

tence? I am not able at this moment to think of more than these which I am about to mention: foreign invasion, demestic insurrection, mutiny in the army or navy, corruption in the civil administration, and last but not least criminal violations of its laws committed by individuals among the body of the people. Have we not a legal mode of rection; you preserve discipline in the army tion by impeaching dishonest magistrates; Our friends on the other side are quite and crimes are prevented and punished by conscious that when they deny the binding the regular judicial authorities. You are against your enemies, because they and they only are justified by the law; you ought to

der foot, they will try American citizens ac- settles all controversy about it. No human cording to law of the nations ! But the law being in this country can exercise any kind If that system did contain a special provi- by law; and under the United States it must sion that a government might hang one of be given by the express words of a written its own citizens without judge or jury, it statue. Whatever is not so given is withwould still be competent for the American | held, and the exercise of it is positively propeople to say, as they have said, that no hibited. Courts-martial in the army and such thing should ever be done here. That navy are authorized; they are legal institutions: their jurisdiction is limited, and their But then they tell us that the laws of war | whole code of procedure is regulated by act must be treated as paramount. Here they of Congress. Upon the civil courts all the

and sceptre were offered to Cromwell, he heskind of public employment, state or national, The Attorney General tell us that all per- itated for several days and answered. "Do civil or military, should swear, without re- sons whom he and his associates choose to de- not make me a king; for then my hands will serve or qualification, that he would sup- nounce for giving aid to the rebellon, are to be tied up by the laws which define the duties port the Constitution. Surely our ancestors | be treated as being themselves a part of the | of that office; but make me protector of the had too much regard for the moral and re- rebellion-they are public enemies, and commonwealth and I can do what I please; ligious welfare of their posterity, to impose therefore they may be punished without be- no statue restraining and limiting the royal upon them an oath like that, if they in- ing found guilty by a competent court or jury. prerogative will apply to me." So these besides, he thought it best to commit the tended and expected it to be broken half the This convenient rule would outlaw every cit- commissions have no legal originand no legal execution of his design to a subordinate time. The oath of an officer to support the izen the moment he is charged with a politi- name by which they are known among the agency. The commission thus organized in Constitution is as simple as that of a wit- cal offense. But political offenders are pre- children of men; no law applies to them, Banquo's case sat upon him that very night ness to tell the truth in a court of justice. - cisely the class of persons who most need the and they exercise all power for the paradoxal at a convenient place beside the road where

ground that he had testified when civil war unfounded both in fact and in law. Wheth- to military commissions in the exercise of eral says the military officers may do in this was raging, and he thought that by swear- er innocent or guilty, to accuse is to convict their assumed authority over civillians - country-they took and killed him, because ng to a lie he might promote some public them before the ignorant and bigoted men Come, Mr. Attorney, "gird up thy loins now their employer at the head of the governor private object connected with the strife? | who generally sit in military courts. But like a man; I will demand of the and thou ment wanted it done, and paid them for do-No. no, the great men who made this this court decided in the prize cases that all shalt declare unto me if thou hast under- ing it out of the public treasury. country what it is the heroes who won her | who live in the enemy's territory are public standing." How is a military commission | But of all the persons that ever wielded independence, and the, who statesmen enemies, without regard to their personal organized? What shall be the number and this kind of power, the one who went most settled her institutions-had no such sentiments or conduct; and the converse of rank of its members? What offenses come directly to the purpose and object of it was notions in their minds. Washington deserv- the proposition is equally true-that all who within its jurisdiction? What is its code of Lola Montez. She reduced it to the eleed the lofty praise bestowed upon him by reside inside of our own territory are to be procedure? How shall witnesses be compeled mentary principle. In 1848, when she was the president of Congress when he resigned | treated as under the protection of the law .- | to attend it? Is it perjury for a witness to | minister and mistress to the King of Bavas commission—that he had always regard. If they help the enemy they are criminals, swearfalsely? What is the function of a judge | ria, she dictated all the measures of the go ed the rights of the civil authority through but they cannot be punished without legal advocate? Does he tell the members how ernment. The times were troublesome. All they must find, or does he only persuade them over Germany the spirit of rebellion was his duty as President afterwards required You have heard much (and you will hear convict? Is he the agent of the Government rising; everywhere the people wanted to him to arm the public force to suppress a more very soon) concerning the natural and to command them what evidence they shall rebellion in western Pennsylvania he never inherent right of the Government to defend admit and what sentence they shall pro- had just exploded in France. Many perthought that the Constitution was abolished, itself without regard to law. This is wholly nounce, or does he always carry his point, sons in Bavaria disliked to be governed so by virtue of that fact in New Jersey, or fallacious. In a despotism-the autocrat is right or wrong, by the mere force of eloquence absolutely by a lady of the character which

an offense. This, in its very essence, is deshideous features under many disguises; it assumes every variety of form:

"It can change shape with I roted s for advantagos. And set the murderous Machinvel to school," But in all its mutations of outward appearance it is still identical in principle, object, and origin. It is always the same great engine of despotism which Hamilton described

Under the old French monarchy the favorite fashion of it was a lettre de eachet, signed by the king, and this would consign the party to a loathsome dungeon until he died, forgotten by all the world. An imperial ulcase will answer the same purpose in Russia. The most faithful subject of that amiable autocracy may lie down in the evening to dream of his future prosperity, and before daybreak he will find himself between two dragoons on his way to the mines of Siberia. In Turkey the verbal order of the Saltan or any of his powerful favorites will cause a man to be tied up in a sack and cast into the Bosphorus. Nero accused Peter and Paul of spreading a "pestilent spperstition," which they called the Gospel. He heard their defense in person and sent them to the cross. Afterwads he tried the whole Christian church in one body on a charge of setting fire to the city, and he convicted them, though he knew not only that they were innocent, but that he himself had committed the crime. The judgement was followed by instant execution; he let loose the Prætorian guards upon men, women and children, to drown butcher and burn them. Herod saw fit, for good political reasons, closely affecting the permanence of his reign in Judea, to punish certain possible traitors There is another view of the subject which in Bethlehem by anticipation. This required the death of all the children in that city under two years of age. He issued his general order, and his provost marshall carried it out with so much alacrity and zeal that in one day the whole land was filled with mourning and lamentation.

Macbeth understood the whole philosophy of the salject. He was an unlimited monarch. His power to punish for any offense or for no offense at all was as broad as that which the Attorney General claims for himself and his brother officers under the United States. But he was more cautious how he used it. He had a dangerous rival from whom he apprepended the most serious peril to to the life of his government. The necessity to get rid of him was plain enough, but he could not afford to shock the moral sense of the world by pleading political necessity for a murder .-He must

"Mask the business from the common eve."

Accordingly he sent for two enterprising gentlemen, whom he took into his service upon liberal pay-"made love to their assistance," and got them to deal with the accused party. He acted as his own judge advocate. He made a most elegant and stirring speech to persuade his agents that Banquo was their oppressor, and had "held them so under fortune" that he ought to die for that alone. When they agreed that he was their enemy, then said the king-

"So is he mine, and though I could
With barefaced power sweep him from my sight
And bid my will avouch it, yet I must not.
For certain friends, who are both his and mine,

For these, and "mamy weighty reasons" What would you think of a witness who protection of a court and jury, for the prose- reason that none belongs to them rightfully. it was known he would be travelling; and should attempt to justify perjury upon the cutions against them are most likely to be Ask the Attorney General what rules apply they did precisely what the Attorney General what rules apply they did precisely what the Attorney General what rules apply

see a first class revolution like that which